



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

REC
Docket No: 07528-09
27 May 2010



This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 26 May 2010. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

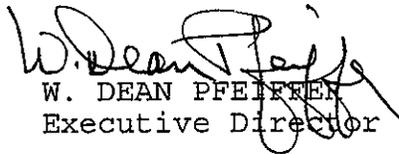
You enlisted in the Marine Corps and began a period of active duty on 14 February 1972, at age 17. On 10 May 1973, you received nonjudicial punishment (NJP) for being in an unauthorized absence (UA) status. On 7 June 1973, you received NJP for failure to go to an appointed place of duty. On 28 June 1973, you received NJP for failure to obey a lawful order. On 13 July 1973, you were convicted at a summary court-martial (SCM) for being UA. You were sentenced to forfeitures of \$204, and confinement at hard labor for 15 days. During the period from 16 October to 13 December 1973, you were UA on numerous occasions which totaled 54 days. On 4 January 1974, you submitted a request for a good of the service discharge to avoid trial by court-martial for the UA periods. Prior to submitting this request for discharge, you conferred with a qualified military lawyer, were advised of your rights, and warned of the probable adverse consequences of accepting such a discharge. Your commanding officer forwarded his recommendation that you be discharged under other than honorable conditions by reason of misconduct. Your request for discharge was granted and on 28 January 1974, you received an other than honorable discharge

for the good of the service in lieu of trial by court-martial. At that time you were assigned an RE-4 reenlistment code.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, conduct, and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant changing the reenlistment code or characterization of your discharge, given your record of three NJP's and conviction by one SCM. In this regard, an RE-4 reenlistment code is required when an individual is discharged prior to the expiration of his term of active obligated service for misconduct and is not recommended for retention. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,


W. DEAN PFEIFFER
Executive Director